

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GABRIEL G. ATAMIAN, MD	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
JAMES J. GENTILE, DDS and	:	
JANE DOE, a/k/a Ms. Shelby,	:	
Secretary	:	NO. 07-cv-00241-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

April 4, 2007

Plaintiff, acting *pro se*, is suing a dentist and the dentist's secretary, asserting a large number of claims, including: professional malpractice, ethnic/religious/racial discrimination (including refusal to provide dental treatment) and defamation of character. After dismissing some of the more questionable claims, the District Court for the District of Delaware has transferred the case to this District. The defendants have filed a motion to dismiss the complaint, because the plaintiff has failed to comply with Pennsylvania Rule of Civil Procedure 1042.3 which mandates that, in professional liability actions, the plaintiff must file a certificate of merit within 60 days after the complaint was filed. Plaintiff counters this argument with the assertion that he has filed a "certificate of merit" within 60 days after the case was transferred to this District, hence his filing is timely. Both sides seem to have overlooked the fact that plaintiff has repeatedly alleged that he is a fully qualified and duly licensed physician, albeit

apparently not engaged in active practice at present. Information provided online by the Office of the Professions of the New York State Education Department verifies that plaintiff received a medical degree from New York Medical College on June 2, 1965, and was licensed by the State of New York on August 18, 1970 (License No. 106933). He is "not registered" in New York, which simply means that he is not engaged in practicing medicine in that jurisdiction.

I conclude that, by filing his *pro se* complaint in this case, plaintiff has, in effect, provided a certification that, in his opinion, the conduct of the defendant dentist did not comport with applicable professional standards. It should also be noted that most of the claims asserted by plaintiff do not involve professional malpractice, and do not require a Rule 1042.3 certificate of merit. The defendants' motion will be denied.

An order follows.

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ORDER

AND NOW, this 4th day of April 2007, IT IS ORDERED:

That defendants' motion to dismiss plaintiff's
complaint is DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.